

**HANCOCK COUNTY
CIRCUIT AND SUPERIOR COURT
LOCAL RULES**

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Section 1 - Definitions

The definitions contained in Administrative Rule 15(B) are adopted for use in this rule and control any question of interpretation. For the purposes of this rule, the regular hours worked by the court reporting staff shall be Monday through Friday from 8:00 a.m. until 4:00 p.m. with one hour for the noon meal. The workweek shall be a seven-day period commencing with Sunday and ending with the Saturday of each week and contain thirty-five hours for which salaried compensation is paid.

Section 2 - Compensation

A court reporter shall work directly under the control, direction and direct supervision of the court by which they are employed during all hours of employment. Each court reporter shall be paid an annual salary, as set by the court and approved by the county council, for regular hours worked during a workweek. Gap hours shall be separately compensated at a rate equivalent to the hourly rate of the yearly salary and overtime hours shall be separately compensated at a rate equivalent to one and one-half times the hourly rate of the yearly salary.

Section 3 - Duties and Responsibilities

The duties of a court reporter shall include:

- a. reporting the evidence presented in proceedings before the court,
- b. preservation and storage of any physical evidence presented in court proceedings,
- c. preparation of chronological case summary entries at the direction of the court and providing notice thereof as required by the rules of trial procedure,
- d. preparation of written documents to effectuate the rulings, orders and judgments of the court or comply with the rules of the Indiana supreme court,
- e. preparation of transcripts of evidence presented in court proceedings requested pursuant to the rules of trial procedure and
- f. such other functions and responsibilities as required by law or the court for its effective administration.

Section 4 - Transcript Preparation

A reporter shall prepare transcripts of evidence only during regular hours unless requested or ordered to do so by the court, the Indiana Court of Appeals or the Indiana Supreme Court. If a transcript cannot be completed during regular hours due to applicable appellate deadlines, the reporter shall receive additional salary as follows: gap hours shall be paid in the amount equal to the hourly rate of the annual salary, overtime hours shall be paid in the amount of one and one-half times the hourly rate of the annual salary; or compensatory time off shall be given weighted in the same manner. The manner of the provision of such additional salary or time off shall be determined by a written agreement to be freely negotiated and executed between the court and the reporter.

Section 5 - Private Practice

A reporter may elect to engage in the private practice of court reporting, i.e., the recording of and preparation of deposition transcripts; but such activity, regardless of whether the deposition concerns a cause pending before the court, shall be conducted outside of regular hours. If a reporter, in exercise of such private practice, utilizes, with the consent of the court, its facilities, equipment and/or supplies, the reporter shall reimburse the court for such usage pursuant to a written agreement between the court and reporter. Such agreement shall establish the:

- a. reasonable market rate for the use of the equipment, facilities and supplies,
- b. method by which records are kept for the use of the same and
- c. method by which the reporter shall reimburse the court for such usage.

Section 6 - Maximum per Page Fees

The reporter shall not charge more than the following rates per page:

- a. Private practice work:
 - Depositions taken by private counsel:
\$3.00 for originals and \$1.75 for copies
 - Depositions taken by pauper counsel:
\$2.50 for originals and \$1.50 for copies
- b. Private transcripts of evidence
 - Cases with private counsel:
\$4.25 for originals and \$2.35 for copies
 - Cases with pauper counsel:
\$3.25 for originals and \$1.50 for copies.

Section 7 - Annual Report

A court reporter shall annually report all transcript and deposition fees received to the Office of State Court Administration on such forms as may be prescribed.

LR 30- AR00-2 Local Caseload Plan For The Eighteenth Judicial Circuit

Pursuant to the Order for Development of Local Caseload Plans of the Indiana Supreme Court entered on July 16, 1999, the undersigned Judges of the Eighteenth Judicial Circuit adopt the following Local Caseload Plan for the Courts of the Circuit: The Judicial Circuit

Hancock County, Indiana constitutes the Eighteenth Judicial Circuit of the State of Indiana and is served by the Hancock Circuit Court and Hancock Superior Courts No. 1 and 2. According to the 2006 Weighted Caseload Measures (WCLM) the County average was 1.40 as opposed to the State average of 1.23. The WCLM of the courts within the Circuit were: Hancock Circuit Court, 1.44; Hancock Superior Court No. 1, 1.27; and Hancock Superior Court No. 2, 1.49.

Plan Concepts

The Local Plan shall be premised upon a review and evaluation of:

1. WCLM information for the courts serving the Circuit,
2. resources and needs of individual courts within the Circuit as well as available judicial resources,
3. measures which would facilitate as well as impede implementation of the Plan goal and
4. mechanics for the implementation of the Plan goal.

Upon completion of such review significant caseload disparities have been determined to exist among the courts of the Circuit as evaluated by WCLM.

The goal of the Local Plan is the alteration of the caseloads of the courts so that each is within 0.25 points of the state average WCLM relevant to the Plan (1.22 for 2006) or the range that may hereafter be adopted by the Indiana Supreme Court. The most efficient method for balancing caseloads within the Circuit is through management of the docketing of cases within the courts of the Circuit so that WCLM analysis of each court will be approximately 1.00.

Implementation

Yearly Evaluation and Review

The judges of the Circuit shall meet en banc each year for the purpose of evaluating the WCLM of each court within the Circuit and adopting appropriate alterations or revisions of the Local Plan and to relieve caseload disparities among the Courts. Each annual meeting shall be scheduled within thirty days of the yearly certification of WCLM information by the Division of State Court Administration. Implementation of the Local Plan shall be on a calendar year basis.

At their annual meeting an evaluation shall be made of the utilization of judicial resources within the courts of the Circuit based upon WCLM for the prior year. A determination shall be made concerning the most efficient and appropriate manner for the Circuit to meet its responsibilities pursuant to the Orders of the Indiana Supreme Court regarding caseload allocation. Upon the completion of the yearly review appropriate and necessary Plan modifications shall be adopted by a majority vote and an order shall be entered which shall direct the Clerk of Hancock County with respect to implementation of the Local Plan. Starting in **January of 2008**, the courts will move the filing of Protective Order cases (PO) from Superior Court 2 to Superior Court 1.

Judicial Circuit Plan

Case types shall be docketed in the courts of the Circuit only as indicated:

a. Circuit Court and Superior Court No. 1

MR, FA, FB, FC, FD, MC, JC, JD, JS, JM, JT, JP, PL, CC, MF, CT, DR, RS, MH, AD, AH, ES, EU, GU, TR and MI,

b. PO cases are to be filed in Superior Court No. 1. They may be transferred to Circuit Court or Superior Court 2 if there is a DR case or other case involving the parties in that court.

c. Superior Court No. 2

FD (as limited by local filing rule), CM, MC, IF, OV, SC.

The Local Rule concerning the filing of criminal cases shall be amended in accordance with such filing procedure and continue to control the docketing of FD case types.

All cases filed in the civil docket of the Hancock Circuit and Superior Court No. 1 shall be filed on a random basis by the Clerk pursuant to a method approved by the courts.

The Local Plan shall continue in effect from year to year thereafter except as modified.

Plan Impact

Based upon WCLM information for 2006, implementation of the Local Plan will result in the WCLM of each court within the Circuit being approximately equal.

LR 30 – AR12- 3 Filing by Facsimile Transmission

Pursuant to Administrative Rule 12 of the Indiana Supreme Court the Clerk of the Hancock Circuit Court and Superior Courts is hereby authorized and directed to accept filings of pleadings on existing cases by electronic facsimile transmission in all cases pending before such courts if received in compliance with such rule and the requirements hereinafter specified:

A. Cover Sheet

Any pleading or proposed order sent to the Clerk for filing or execution pursuant to this rule shall be accompanied by a cover sheet. The cover sheet shall:

1. Identify the sending party and its voice and facsimile telephone numbers;
2. State the title of the pleading or proposed order being sent, the number of pages, the case number to which the pleading or order applies and provide any necessary instructions for filing and;
3. Contain the signature of the attorney or pro se party authorizing the filing.

B. Limitation on Length of Pleadings

The Clerk shall not accept any pleading for filing under this rule greater than nine (9) pages in length. Multiple pleadings or documents per transmission will be accepted as long as the total number of pages received including the cover sheet does not exceed ten (10) pages.

- C. Date of Filing
Pleadings received by the Clerk pursuant to this rule shall be filed of record on the date received if they are produced in the Clerk's Office between 8:00 a.m. and 4:00 p.m. Monday through Friday. Pleadings received at any other time of day or other days of the week, holidays, or other days the Clerk's Office is closed shall be shown filed of record on the next normal business day such office is open.
- D. Copies for Service and Proposed Orders
In the event a pleading is received for filing which is required to be served upon the adverse party, other than per Trial Rule 5, or which requires the execution of an order, the filer need only transmit a single copy to the Clerk. The Clerk shall produce duplicate copies for service.

LR 30-AR3-4 Hancock County Alcohol and Drug Program Fees

The following fees will be assessed for participants in the Hancock County Alcohol and Drug Program (ADAP): Not to exceed Four Hundred Dollars (\$400.00) in all cases.

LR 30-CR2.2-1 Assignment Of Felony And Misdemeanor Cases

Section 1 – Definitions

A misdemeanor case may include a charged infraction but not a felony.

A felony case may include both misdemeanors and infractions in addition to the charged felony. A felony case shall be deemed to be a felony case of the highest class alleged in the information or indictment.

Section 2 – Case Assignment upon Filing

Immediately upon the filing of a case the Prosecuting Attorney shall deliver the file to the appropriate court and advise the court as to whether the defendant is in custody.

The following offenses shall be filed only in Hancock Superior Court No. 2:

Ordinance Violations,

Infractions,

Misdemeanors,

Class D felonies defined by IC-9 [OWI OR HTO felonies],

Class D felonies defined by IC 35-46-1-4 [Neglect of a Dependent] if joined with a violation of IC 9-30-5-1 through IC 9-30-5-5 [OWI as a misdemeanor or felony],

Class D felonies defined by IC 35-46-1-5 [Non-Support of a Dependent],

Violations of IC 35-43-4-2 [Theft] if the value of the property is less than One Hundred Dollars (\$100.00),

Violations of IC 35-44-3-3(b)(1) [Resisting Law Enforcement as a Class D felony] and,

Class D felonies joinable with a filed criminal offense under IC-9 arising out of the same fact situation.

Class “D” felonies filed against other defendants arising out of the same fact situation as any of the above mentioned cases joinable by law shall also be filed in Hancock Superior Court No. 2. All other felony offenses shall be filed in either the Hancock Circuit Court or Hancock Superior Court No. 1 as hereinafter prescribed except Escape charged pursuant to IC 35-44-3-5 shall be filed in the same court which had sentenced or ordered the defendant held.

Offenses shall be filed in the Hancock Circuit Court and Hancock Superior Court No. 1 on an alternate basis each year according to the date of the earliest offense alleged to have been committed as follows: on odd days of the month, in the Hancock Circuit Court, and on even days of the month, in Hancock Superior Court No. 1.

If an information or indictment alleges a period of time for the commission of an offense rather than a single specific date, the case shall be filed according to the earliest month alleged. Cases involving offenses alleged to have been committed during odd months shall be filed in the Hancock Circuit Court and those alleging the commission of an offense during an even month shall be filed in Hancock Superior Court No. 1. An information or indictment involving both specific alleged dates and period of time shall be filed as though it alleged specific dates only.

Cases filed against other defendants arising out of the same fact situation which are joinable by law shall be filed in the same court. Juvenile Delinquency cases will be filed as civil cases, however if a juvenile has a pending or open case, a new case shall be filed in the same court as the existing case.

Section 3 – Refiling and/or Subsequent Filing

If the State of Indiana dismisses an information or indictment filed against a defendant, any subsequent refiling of such information or indictment charging the same and/or other offenses, arising out of the same underlying factual situation, shall be filed in the same court from which the dismissal was obtained.

Section 4 – Reassignment of Cases Due to Disqualification of the Judge

If the judge before whom a case is pending becomes disqualified from jurisdiction of a case pursuant to the Indiana Rules of Criminal Procedure, Rules of Procedure for Post Conviction Remedies, Recusal or the Code of Judicial Conduct, the case shall be reassigned to a judge from an alphabetized list of judges of the Circuit or Superior Courts of Henry, Rush and Shelby counties who have consented to serve. Judges who have previously exercised jurisdiction in this case shall not be eligible for reassignment to the case.

In the event a judge is not available for assignment from the list or the particular circumstances of the case warrant selection of a Special Judge by the Indiana Supreme Court, the case shall be certified to the Indiana Supreme Court for the appointment of a Special Judge pursuant to Criminal Rule 13(D).

LR 30-TR76-2 Selection of a Special Judge Pursuant to Trial Rule 79(H)

Section 1- Cases involving a change of judge

In the absence of an agreement as to a particular special judge [TR 79(D)], or an agreement to have the regular sitting judge appoint a special judge [TR 79(E)], the regular sitting judge shall name a panel pursuant to TR 79(F) consisting, whenever possible, of other judges, senior judges or magistrates from Hancock County. If a sufficient number of Hancock County judges, senior judges or magistrates does not exist, then a panel shall be named including the available Hancock County judges, senior judges or magistrates, and judges, senior judges or magistrates from either Johnson County or Shelby County.

If none of the above methods produce a special judge, the clerk of the court shall select a special judge (on a rotating basis) from an alphabetical list of judges or magistrates eligible under Trial Rule 79(J) from Johnson County and Shelby County.

In cases in which no judge is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the regular sitting judge may certify the case to the Supreme Court for appointment of a special judge.

Section 2- Cases involving recusal or disqualification of a judge

In the absence of an agreement as to a particular special judge [TR 79(D)], or an agreement to have the regular sitting judge appoint a special judge [TR 79(E)], the clerk of the court shall select a special judge (on a rotating basis) from an alphabetical list of judges or magistrates eligible under Trial Rule 79(J) from Hancock County, Johnson County and Shelby County.

In cases in which no judge is eligible to serve as special judge or the particular circumstance of a case warrants selection of a special judge by the Indiana Supreme Court, the regular sitting judge may certify the case to the Supreme Court for appointment of a special judge.

LR30 – JR4- 3 Summoning Jurors

Pursuant to Indiana Jury Rule 4, the judges of Hancock County have selected the two-tier system of subparagraph b of Indiana Jury Rule 4 as the method for summoning jurors in Hancock County.

LR30 – TR00- 4 Continuances

Motion for Continuance. Unless made during trial, a motion for continuance shall be in writing and verified, and state with particularity the grounds and that all opposing parties have been contacted and whether they consent or object to the continuance or if counsel or the party have not been contacted the reasons therefore must be fully set forth. When practical, counsel shall contact the Court with a date for the rescheduling of the case that is acceptable to opposing counsel. (It is helpful to advise the Court of the anticipated time needed for the hearing.)

Time for filing. Motions or Stipulations for Continuance shall be filed as soon after the cause for continuance or delay is discovered by the party seeking same.

LR30 – TR00- 5 Discovery

Civil Cases.

In all cases triable by jury, final lists of witnesses and exhibits shall be exchanged at least sixty days before trial and discovery shall be completed thirty days prior to the trial unless otherwise agreed by the parties or ordered by the Court. Independent medical examinations shall be completed at least one hundred twenty days before trial and reports thereon within forty-five days of the examination.

In cases triable to the Court, final lists of witnesses and exhibits shall be exchanged at least thirty days before trial and discovery shall be completed fifteen days prior to the trial unless otherwise agreed by the parties or ordered by the Court.

Extension of Time.

For good cause shown, time may be extended for completion of discovery.

Criminal Cases.

The State of Indiana and the Defendant shall provide reciprocal discovery as permitted by applicable case law. Each side shall have an ongoing duty to seek and obtain relevant information and promptly supplement the discovery it has provided. Disclosure deadlines may be modified by a filed written agreement of counsel or by leave of court. The State of Indiana and the Defendant shall file written statements detailing the discovery provided.

Upon the entry of an appearance by an attorney for a defendant, the State shall disclose and furnish all relevant items and information in their possession under this rule to the defendant within thirty days from the date of the appearance, subject to Constitutional limitations and such other limitation as the court may specifically provide by separate order. The defendant shall disclose and furnish all relevant items and information under this rule to the State within ten days after the State's disclosure. A written motion is not required, except:

to compel compliance under this rule;

for additional discovery not covered under this rule, such as Rule 404 (b) items;

for a protective order seeking exemption from the provisions of this rule; or,

for an extension of time to comply with this rule.

The State shall disclose the following materials and information within its possession or control:

- the names and last known addresses of persons whom the State intends to call as witnesses along with copies of their relevant written and recorded statements;
- any written, oral, or recorded statements made by the accused or by a co-defendant, and a list of witnesses to the making and acknowledgement of such statements;
- if applicable, the State shall disclose the existence of grand jury testimony of any person whom the prosecuting attorney may call as a witness at any trial or hearing in this case. In addition, the State shall provide a copy of those portions of any transcript of grand jury minutes, within the State's possession, which contain the testimony of such witness or witnesses. If such transcripts do not exist, the defendant may apply to the court for an order requiring their preparation;
- any reports or statements of experts, made in connection with the particular case, including results of physical or mental examinations and of scientific tests, experiments or comparisons;
- any books, papers, documents, photographs, or tangible objects that the prosecuting attorney intends to use in the hearing or trial or which were obtained from or belong to the accused;
- any record of prior criminal convictions that may be used for impeachment of the persons whom the State intends to call as witnesses at any hearing or trial; and
- any material or information within its possession or control that tends to negate the guilt of the accused as to the offenses charged or would tend to reduce the punishment for such offenses.

Defendant's counsel (or defendant where defendant is proceeding pro se) shall furnish to the State the following material and information within his or her possession or control:

- the names and last known addresses of persons whom the defendant intends to call as witnesses along with copies of their relevant written and recorded statements;
- any books, papers, documents, photographs, or tangible objects defendant intends to use as evidence at any trial or hearing;
- any medical, scientific, or expert witness evaluations, statements, reports or testimony which may be used at any trial or hearing;
- any defense, procedural or substantive, which the defendant intends to make at any hearing or trial; and
- any record of prior criminal convictions known to the defendant or defense counsel that may be used for impeachment of the persons whom the defense intends to call at any hearing or trial.

Counsel for the State of Indiana and the Defendant shall only be required to produce criminal records information which they actually have obtained. Absent a showing of good cause neither side shall be required to obtain criminal records for the other party. The parties may perform these disclosure obligations in any mutually agreeable manner. Compliance may include a notification that material and information being disclosed may be inspected, obtained, tested, copied, or photographed at a specified reasonable time and place.

Number. No party shall serve on any other party more than thirty (30) interrogatories, including subparagraphs, without leave of Court. Any party desiring to serve additional interrogatories shall file a written motion setting forth the proposed additional interrogatories and the reasons establishing good cause for their use.

Answers and objections. Answers and objections to interrogatories under Trial Rule 31 or 33 shall set forth in full the interrogatories being answered or objected to immediately preceding the answer or objections.

Filing. Interrogatories, depositions or requests for discovery shall not be filed with the Court except as provided in Indiana Trial Rule 5 D (2).

Depositions and Experts in Pauper Counsel Cases. Counsel assigned to a party due to indigency shall not take depositions or retain experts without the prior written approval of the Court. Unless leave is granted for good cause private reporting firms may not be utilized by court appointed counsel.

LR30 – TR00- 6 Withdrawal Of Appearance

A. **Procedure for withdrawal.** All withdrawals of appearance shall be in writing and by leave of Court. Permission to withdraw shall be given only after the withdrawing attorney has given his client ten (10) days written notice of intention to withdraw and has filed a copy of such notice with the Court; or upon a simultaneous or prior entering of appearance by counsel for said client. No request for withdrawal of appearance shall be granted unless the same has been filed with the Court at least ten (10) days prior to trial date except for good cause shown.

B. **Contents of notice.** Any notice of intention to withdraw shall include an explanation to the client as follows:

1. the present status of the case;
2. the date or dates of scheduled hearings or other pending matters which require timely action;
3. prejudice which might result from failure of a client to act promptly or to secure new counsel.

LR30 – TR00- 7 Consent To Alternate Service

A. **Courthouse boxes.** Any Hancock County attorney or any firm of attorneys may, without charge, maintain an assigned Courthouse box in the Hancock County Courthouse for receipt of notices, pleadings, process, orders, or other communications from the Hancock Circuit and Superior Courts or the Clerk, as to matters with such Courts, and other attorneys and law firms.

B. **How assigned.** Courthouse boxes shall be assigned to each Hancock County attorney or firm of attorneys who shall be deemed to have consented to service therein.

C. **Effect of consent.** Deposits made in any assigned box of notices, pleadings, process, orders, or other communications made shall be deemed to constitute and be accepted as service equivalent to service in compliance with Trial Rule 5.

D. **Revocation of consent.** Consent to Alternate Service under this rule shall remain valid until a revocation in writing has been filed with the Hancock Circuit Court. Notice of the revocation shall be given to all courts and members of the Bar who have consented to alternative service by attorney or law firm which has withdrawn its consent to alternative service.

LR30 TR00 –8 Cash Bonds/ADA Fees

When permitted by law, all or part of a full cash bond may be retained to cover: pauper counsel, community correction or probation user fees; restitution; court costs; fines; special fees authorized by statute; child support; or any other cost or fee Ordered by the Court.

The Defendant, or any person providing cash to a Defendant, agrees that all or part of the cash bond may be retained as stated above.